

REPLY

Serial No. 09/973,862
Atty. Docket No. GP095-06.DV4

Remarks

Claims 23-56 are pending in the subject application. Claims 25, 31 and 41 are withdrawn.

Reconsideration and allowance are respectfully requested in view of the above amendments to the claims and the following remarks.

Applicants note with appreciation the Examiner's withdrawal of the election of species requirement set forth in the Office Action mailed on June 3, 2005.

Objection to Declaration

The Examiner contends that the Declaration is defective because inventor Donald Nieglos amended his address information "with an initial." Applicants submit that Donald Nieglos did not amend either the residence or the post office address provided under his name in the Declaration. Instead, it would appear that the Examiner intended to refer to changes made to the residence and post office addresses of inventor Robert Schneider, which information was correctly identified in the Application Data Sheet filed simultaneously with Applicants' Declaration. See Attachment A. And pursuant to 37 C.F.R. § 1.76(d)(2), "[t]he information in the application data sheet will govern when the inconsistent information is supplied at the same time by a § 1.63 or § 1.67 oath or declaration," unless such information relates to inconsistencies in the naming of inventors. Accordingly, withdrawal of this objection is respectfully requested.

Rejection Under 35 U.S.C. § 112

Claims 23, 24, 26-30, 32-40 and 42-56 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicants respectfully traverse this rejection for the reasons that follow.

The Examiner first submits that "it is unclear how a part of a device or an apparatus is one or more transport mechanisms since one or more transport mechanisms may be method steps."

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However, the Examiner has provided no reasoning to suggest how a transport mechanism may be method steps. To the contrary, the phrase "transport mechanism" clearly and unambiguously conveys that the recited structure is a device that can carry a reaction receptacle between stations of the claimed system. See Attachment B, dictionary definition of the term "mechanism."

Second, the Examiner contends that the phrase "may be present in a fluid sample" in the preamble is indefinite because it is unclear whether the target nucleic acid sequence is present in the sample. Since the currently pending claims are system claims rather than process claims, Applicants submit that whether the target nucleic acid is actually present in a fluid sample to be processed by the system is irrelevant. Nevertheless, Applicants have amended the preamble of claim 23 herein to recite that the claimed system is for "isolating and amplifying a target nucleic acid sequence present in a fluid sample."

For the reasons presented above, withdrawal of the Examiner's rejection under 35 U.S.C. § 112, second paragraph, is respectfully requested.

Conclusion

Applicants submit that the subject application is in condition for allowance, and early notice to that effect is earnestly solicited.

Please charge any fees due in connection with this Reply to Deposit Account No. 07-0835 in the name of Gen-Probe Incorporated.

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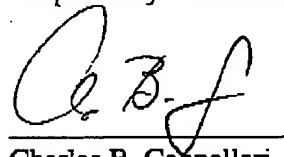
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Respectfully submitted,

Date: October 5, 2005

By:



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ATTACHMENT A

SUPPLEMENTAL APPLICATION DATA SHEET

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Citizenship Country:: U.S.A.

Correspondence Information

Correspondence Customer Number:: 21365

Application Information

Title Line One:: AUTOMATED DIAGNOSTIC ANALYZER AND METHOD
Title Line Two::
Title Line Three::
Title Line Four::
Title Line Five::
Title Line Six::
Title Line Seven::
Total Drawing Sheets:: 46
Formal Drawings?:: Yes
Application Type:: Utility
Docket Number:: 2599-104-D4

Secrecy Order in Parent Appl?:: No

Representative Information

Representative Customer Number:: 6449

Continuity Information

This application is a:: Divisional of

>Application One:: 09/303,030
Filing Date:: April 30, 1999
Patent Number::

whichwhich is a:: Non-Provisional of Provisional

>>Application Three:: 60/083,927
Filing Date:: May 1, 1998
Patent Number::

ATTACHMENT B

Second College Edition

The
American Heritage
Dictionary

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foresight. Significance stresses meaning beyond immediate comprehension (underlying or long-range meaning); besides perception, it implies evaluation. In contrast, *signification* and *acceptation* apply to accepted or established meaning, directly conveyed. *Import* also pertains to ostensible meaning. *Purport* applies to broad understanding, often of an extensive subject.

meaningful (mē'ning-fəl) *adj.* Having meaning, function, or purpose; significant. —*mean'ing-ful-ly adv.* —*mean'ing-ful-ness n.*

mean-ing-less (mē'ning-lis) *adj.* Having no meaning or significance; senseless. —*mean'ing-less-ly adv.* —*mean'ing-less-ness n.*

mean-ly (mē'n-lē) *adv.* In a poor, mean, or base manner.

mean-ness (mē'n-nis) *n.* 1. The state of being inferior in quality, character, or value; commonness. 2. Selfishness; stinginess. 3. A spiteful or malicious act.

mean solar day *n.* The period of time between two successive transits of the mean sun; the standard for the 24-hour day, measured from midnight to midnight.

mean square *n.* The arithmetic mean of the squares of a set of numbers.

mean sun *n.* A hypothetical sun defined as moving at a uniform rate along the celestial equator so that it completes its orbit in the same period as the apparent sun, used in computing the mean solar day.

meant (mēnt) *v.* Past tense and past participle of *mean*.

mean-time (mē'n-tīm) *n.* The time between one occurrence and another; interval. —*adv.* During a period of intervening time; meanwhile: "Meanwhile, let wonder seem familiar" (Shakespeare).

Usage: *Meantime* serves principally as a noun: *In the meantime we waited.* In expressing the same sense as a single adverb, *meanwhile* is more common than *meantime*: *Meanwhile we waited.*

mean time *n.* Time measured with reference to the mean sun, giving equal 24-hour days throughout the year.

mean-while (mē'n-wīl, -wīl) *n.* The intervening time. —*adv.* 1. During or in the intervening time: *Meanwhile, life goes on.* 2. At the same time: *The court is deliberating; meanwhile, we must be patient.* —*See Usage note at meantime.*

meas-les (mē'z-lis) *n.* (used with a *sing. verb*) 1. a. An acute, contagious virus disease, usually occurring in childhood and characterized by the eruption of red spots. b. Any of several diseases displaying similar but milder symptoms, esp. German measles. 2. A disease of cattle and swine, caused by tapeworm larvae. 3. A plant disease, usually caused by fungi, and producing minute spots on leaves and stems. [ME *measles*, pl. of *measel*, measles-spot, of MLG orig.]

meas-ly (mē'z-lē) *adj.* —*adv.* 1. Infected or spotted with measles; measled. 2. *Slang.* Contemptibly small; meager: *a measly tip.*

meas-ur-a-ble (mē'z-ar-ə-bal) *adj.* 1. Able to be measured. 2. Of distinguished importance; significant: *a measurable figure in literature.* 3. Not so great as to escape all measure or comparison; moderate. —*meas-ur-a-ble-ly adv.*

meas-ure (mē'z-ər) *n.* 1. The dimensions, quantity, or capacity of something as ascertained by measuring: *Length, area, volume; and mass are basic measures of material properties.* 2. A reference standard or sample used for the quantitative comparison of properties: *The standard kilogram is maintained as a measure of mass.* 3. A unit specified by a scale, as an inch, or by variable conditions, as a day's march. 4. A system of measurement, as the metric system. 5. A device, as a marked tape or a graduated container, used for measuring. 6. An act of measurement. 7. An evaluation or basis of comparison: *"the final measure of the worth of a society"* (Joseph Wood Krutch). 8. The extent or degree of something. 9. A fitting amount: *a measure of recognition.* 10. A limited amount or degree: *"a measure of serenity"* (John Updike). 11. Limit; bounds: *a generosity knowing no measure.* 12. Appropriate restraint; moderation: *criticism in measure.* 13. Often measures. An action taken as a means to an end; expedient: *desperate measures.* 14. A legislative bill or enactment. 15. Poetic meter. 16. *Mus.* The metric unit between two bars on the staff; bar. —*v.* —*ured, -uring, -ures.* —*tr.* 1. To ascertain the dimensions, quantity, or capacity of. 2. To mark, lay out, or establish dimensions for by measuring: *measure off an area.* 3. To estimate by evaluation or comparison: *"I gave them an account . . . of the situation as far as I could measure it"* (Winston Churchill). 4. To bring into opposition: *She measured her power with that of a dangerous adversary.* 5. To mark off, usually with reference to a given unit of measurement; dole out: *measure out a pint of milk.* 6. To serve as a measure of: *The inch measures length.* 7. To allot or distribute as if by measuring: *mete: The revolutionary tribunal measured out harsh justice.* 8. To consider or choose with care; weigh: *He measures his words with pedantic caution.* 9. *Archaic.* To travel over: *"We must measure much ground today"* (Shakespeare). —*intr.* 1. To have a measurement of: *The room measures 10 by 12 feet.* 2. To allow of measurement: *White sugar measures more easily than brown.* —*phrasal verb.* *measure up.* 1. To be the equal of. 2. To have the necessary qualifications: *a candidate who just didn't measure up.* —*idioms.* beyond

measure. 1. In excess. 2. Without limit. For good measure. In addition to the required amount. In a (or some) measure. To a degree: *The new law was in some measure harmful.* [ME < OFr. *mesure* < Lat. *mensura* < *metiri*, to measure.] —*meas-ur-er n.*

meas-ured (mē'z-əd) *adj.* 1. Determined by measurement: *The measured distance was less than a mile.* 2. Regular in rhythm and number: *"A clock struck slowly in the house with a measured, solemn chime"* (Thomas Wolfe). 3. Careful; restrained: *measured words.* 4. Calculated; deliberate: *with measured irony.* 5. Slow and stately. 6. Written in meter. 7. *Mus.* *Mensural.* 8. Limited: *a measured capacity for action.* —*meas-ured-ly adv.* —*meas-ured-ness n.*

meas-ure-less (mē'z-ər-lis) *adj.* Having no limits; infinite: *measureless happiness.* —*meas-ure-less-ly adv.*

meas-ure-ment (mē'z-ər-mənt) *n.* 1. The act of measuring or the process of being measured. 2. A system of measuring: *measurement in miles.* 3. The dimension, quantity, or capacity determined by measuring: *room measurements.*

measuring worm *n.* A geometrid caterpillar that moves in alternate contractions and expansions suggestive of measuring.

meat (mēt) *n.* 1. The edible flesh of mammals, as distinguished from that of fish or poultry. 2. An edible, fleshy, inner part: *crab meat.* 3. The edible portions of eggs, fruits, or nuts. 4. The essence or principal part of something: *the meat of the editorial.* 5. *Slang.* Something one enjoys or excels in; forte: *Tennis is his meat.* 6. Something eaten for nourishment; food: *meat and drink.* —*modifier:* *meat products.* [ME *mete* < OE, food.]

meat-ball (mēt'bol) *n.* 1. A small ball of ground meat variously combined and cooked. 2. *Slang.* A stupid, clumsy, or dull person.

meat-less (mēt'lis) *adj.* 1. Lacking meat or food. 2. Being or relating to a time when meat is not to be eaten: *meatless days.*

meat loaf *n.* A mounded or molded dish, usually baked, of ground beef or a combination of meats and other ingredients.

me-a-tus (mē'3-lis) *n., pl. -tus-es or meatus.* A body canal or passage, as the opening of the ear or the urethral canal. [Lat. *passage* < *meare*, to pass.]

meaty (mē'tē) *adj.* —*comparative* —*superlative* 1. a. Of or pertaining to meat. b. Having the flavor or smell of meat. c. Full of or containing meat. 2. Heavily fleshed. 3. Supplying ample food for thought: *a meaty theme for study and debate.* —*meat-iness n.*

me-c-a-myl-a-mine (mek'ə-mīl'ə-mēn') *n.* A drug, C₁₁H₁₅NHCl, that is administered orally to bring down highly elevated blood pressure. (Orig. a trademark.)

me-c-a (mek'ə) *n.* 1. a. A place that is regarded as the center of an activity or interest. b. A goal to which adherents of a religious faith or practice fervently aspire. 2. A place visited by many people: *a mecca for tourists.* [After Mecca, Saudi Arabia, from its being a place of pilgrimage.] —*comparative* —*superlative*

mech-an-ic (mē-kān'ik) *n.* A worker skilled in making, using, or repairing machines and tools. [ME, *mechanical*, < OFr. *meccanicus* < Lat. *mechanicus* < Gk. *mēkhanikōs*, < *mēkhanē*, machine < *mēkhanōs*, means.] —*mech-anic-ally adv.*

mech-anic-al (mē-kān'ik-əl) *adj.* 1. Of or pertaining to machines or tools. 2. Operated or produced by a machine. 3. Of, pertaining to, or governed by mechanics. 4. Acting or performing like a machine; automatic: *The speaker's delivery was mechanical.* 5. Pertaining to, produced by, or dominated by physical forces. 6. Interpreting and explaining the phenomena of the universe by referring to causally determined material forces; mechanistic. 7. Of or pertaining to manual labor, its tools, and its skills. —*n.* *PHINING.* A layout consisting of type proofs, artwork, or both, exactly positioned and prepared for making an offset or other printing plate. [ME < *mechanic*, *mechanical*. —*see MECHANIC*] —*mech-anic-al-ly adv.* —*mech-anic-al-ness n.*

mechanical advantage *n.* The ratio of the output force of a machine to the input force.

mechanical drawing *n.* 1. Drafting. 2. A drawing, such as an architect's plans, that enables measurements to be interpreted.

mechanical engineering *n.* The branch of engineering that encompasses the generation and application of heat and mechanical power and the design, production, and use of machines and tools. —*mechanical engineer n.*

mech-a-ni-clan (mek'ə-nī-sh'ən) *n.* A person who makes, uses, or repairs machines and tools.

mechanics (mē-kān'iks) *n.* (used with a *sing.* or *pl. verb*) 1. The analysis of the action of forces on matter or material systems. 2. The design, construction, operation, and application of machinery or mechanical structures. 3. The functional and technical aspects of an activity: *The mechanics of football are learned with practice.*

***mech-a-nism** (mek'ə-nīz-əm) *n.* 1. a. A machine or mechanical appliance. b. The arrangement of connected parts in a machine. 2. A system of parts that operate or interact like those of a machine: *the mechanism of the solar system.* 3. An instrument or process, physical or mental, by which

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MEASUREMENT (continued)

SCIENTIFIC MEASUREMENT

The units tabulated in Table II are commonly used in science and engineering. They are primarily chosen from the fields of mechanics and electricity and magnetism and are a representative, not an exhaustive, selection.

SI units are given for all physical quantities listed. For those units having a special name in the International System, the name appears, along with the derivation of the unit from the fundamental SI quantities, which are defined as: meter (m), kilogram (kg), second (s), ampere (A), kelvin (K) or alternatively degree Kelvin (°K), and candela (cd). Two supplementary units, the radian (rad), for measuring plane angles, and the steradian

(sr), for measuring solid angles, are used. These are "rational" rather than "physical" units, in the sense that their definitions are based on abstract geometrical concepts rather than on physical standards.

In some instances, it is customary practice to measure a quantity in units other than SI units; in such cases the appropriate unit is given in the right-hand column, along with a conversion factor.

Additional information on individual scientific units may be found in those not tabulated, should be sought at the unit name in the text.

TABLE II. SCIENTIFIC UNITS

Quantity	SI Unit	Symbol	Derivation	Other Units
acceleration	meter per second squared	m/s ²		
angular acceleration	radian per second squared	rad/s ²		
angular velocity	radian per second	rad/s		
density	kilogram per cubic meter	kg/m ³		
electric capacitance	farad	F	(A·s/V)	
electric charge	coulomb	C	(A·s)	electrostatic unit (esu) = $\times 10^{-9}$ C
electric current	ampere	A		
electric field strength	volt per meter	V/m		
electric resistance	ohm	Ω	(V/A)	
energy, work, quantity of heat	joule	J	(N·m)	electronvolt (eV) = 1.60219×10^{-19} J calorie (cal) = 4.184 J British thermal unit (Btu) = 1055.87 J erg = 10^{-7} J foot-pound (ft·lb) = 1.35582 J
flux of light	lumen	lm	(cd·sr)	
force	newton	N	(kg·m/s ²)	dyne (dyn) = 10^{-5} N
frequency	hertz	Hz	(s ⁻¹)	formerly cycle per second (cps, c/sec)
illumination	lux	lx	(lm/m ²)	
inductance	henry	H	(V·s/A)	
length	meter	m		angstrom (Å) = 10^{-10} m
luminance	candela per square meter	cd/m ²		
magnetic field strength	ampere per meter	A/m		oersted (Oe) = (1/4) $\times 10^3$ A/m
magnetic flux	weber	Wb	(V·s)	maxwell (Mx) = 10^{-8} Wb
magnetic flux density	tesla	T	(Wb/m ²)	gauss (G) = 10^{-4} T
magnetomotive force	ampere	A		
mass	kilogram	kg		
power	watt	W	(J/s)	horsepower (hp) = 745.7 W atmosphere (atm) = 1.01325×10^5 N/m ² bar = 10^5 N/m ²
pressure	newton per square meter	N/m ²		
velocity	meter per second	m/s		
voltage, potential difference, electromotive force	volt	V	(W/A)	

something is done or comes into being: "The mechanism of oral learning is largely that of continuous repetition" (T.G.E. Powell). 4. Psychol. a. The automatic and consistent response of an organism to various stimuli. b. A habitual manner of acting to achieve some end. 5. Psychoanal. A usually unconscious mental and emotional pattern that dominates behavior; a defense mechanism. 6. Chem. The sequence of steps in a chemical reaction. 7. Philol. The doctrine that all natural phenomena are explicable by material causes and mechanical principles. [LLat. *mechanisma* < Gk. *mēkhanē*, machine. —see MECHANIC.]

mechanist (mēk'a-nist) *n.* 1. A person who believes in or employs in his work or thinking the philosophical doctrine of mechanism. 2. A mechanician.
mechanistic (mēk'a-nis'tik) *adj.* 1. Mechanically determined. 2. Of or pertaining to the philosophy of mechanism,

esp. tending to explain phenomena only by reference to physical or biological causes. 3. Mechanical. —*mechanistic-ally* *adv.*

mechanize (mēk'a-nīz) *tr.v.* -nized, -nizing, -nizes
equip with machinery: *mechanize a factory*. 2. To equip (a military unit) with motor vehicles, as tanks and armored cars. 3. To make automatic or unspontaneous; render routine or monotonous. 4. To produce by or as if by machinery. —*mechanization* *n.* —*mechanizer* *n.*
mechano- or **mechan-** *pref.* 1. Machine; mechanical. 2. Mechanical: *mechanochemistry*. [ME *mechanica* < Gk. *mēkhanē* < *mēkhanē*, machine.]
mechanochemical coupling (mēk'a-nō-kēm'i-kəl) *n.* The reversible conversion of chemical energy into mechanical work.

mechano-receptor (mēk'a-nō-rē-sēp'tar) *n.* A receptor

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